

CHAPTER 6

NONPUNITIVE REDUCTIONS

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CHAPTER 6

NONPUNITIVE REDUCTIONS

6000. REDUCTION. The CMC may reduce enlisted Marines to any grade, when necessary to reduce the total number of Marines in a particular grade for the purpose of shaping the force. Additionally, the CMC may reduce enlisted Marines for incompetence or unacceptable performance of duty per procedures described in this Chapter.

6001. REDUCTION FOR INCOMPETENCE; COMPETENCY REVIEW BOARD (CRB)

1. Definitions

a. Incompetence. Any action(s) or omission(s) in technical or professional performance that indicate a Marine is not capable of satisfactory performance in the grade and MOS currently held.

(1) Technical Incompetence

(a) A Marine is technically incompetent if the Marine is not proficient or capable of performing the duties and tasks prescribed for his or her assigned MOS, in the grade currently held, as specified in the current edition of MCO P1200.7 (Marine Corps Military Occupational Specialties Manual (MOS Manual)).

(b) A Marine serving in a basic MOS who fails to complete qualifications in his or her intended MOS is technically incompetent. This applies to academic failures, voluntary withdrawals from training, and disenrollment from school (training) for professional deficiencies. Marines who fail to complete qualifications in their intended MOS through no fault of their own (e.g., do not qualify for security clearance) are not technically incompetent within the meaning of this paragraph.

(2) Professional Incompetence

(a) A Marine who fails to exhibit military attributes to the degree appropriate for the current grade is professionally incompetent. These attributes include, but are not limited to: leadership, force, judgment, integrity, military presence and bearing, reliability, obedience, moral fitness, physical fitness, endurance, and self-discipline.

(b) Members of the U.S. Marine Corps Reserve may also be professionally incompetent if they fail to meet the prescribed annual participation requirements of 48 regularly scheduled drills and a minimum of 14 days active duty (annual training).

b. Competency Review Board (CRB). A CRB is a formal administrative body convened to consider the suitability and ability of a Marine to continue to serve in the grade currently held. In the case of Marines of the grade of PFC and LCpl the CRB may consist of only the Marine's Commanding Officer.

c. Convening Authority. Commanders, as defined in paragraph 1200.3b, who are authorized to convene CRB proceedings in the case of enlisted Marines.

d. Reduction Authority. The Marine officer authorized to administratively reduce a Marine determined to be incompetent by a CRB. The reduction authority for SSgts and above are Marine officers exercising general court-martial convening authority. The reduction authority for Sgts and below are commanders, as defined in paragraph 1200.3b. The reduction authority and the convening authority may be the same individual.

2. Policy

a. A reduction by a CRB is an administrative action designed to increase the efficiency of the Marine Corps, to ensure the integrity of the Marine Corps grade structure, and ultimately to ensure the capability of the Marine Corps to perform its assigned missions. Since such action will have a significant impact on the career and life of the Marine concerned, all competency review cases and procedures will be approached with the thoughtful concern, dignity, and professional objectivity normally associated with the serious affairs of command. Furthermore, these cases will be completed with the greatest dispatch consistent with prudence and professionalism, while having due regard for the concerns of the Marine and the Marine Corps.

b. Action pursuant to this Chapter should not be initiated unless the Marine has had a reasonable period of time to serve in the grade and/or MOS in addition to receiving schooling (training) and/or on-the-job training. Furthermore, the Marine should have been counseled previously concerning the noted deficiencies, and afforded an opportunity to take corrective action to overcome those deficiencies. Counseling is required prior to the initiation of any competency review action.

c. The provisions of this paragraph pertain to the reduction of enlisted Marines for technical and/or professional incompetence.

(1) Marines may not be reduced for technical and/or professional incompetence without first being afforded the opportunity to appear before a CRB. However, Marines who fail to complete MOS qualification at a formal MOS producing school and are reduced under the provisions of paragraphs 6002, 6003, and 6004 of this Manual, are not entitled to appearance before a CRB.

(2) Marines in the grades of PFC and LCpl may appear before a CRB consisting of only one member, the commander, as defined in paragraph 1200.3b. If found incompetent, they may be reduced by the commander. If the commander deems it appropriate, a CRB with multiple members may be convened for Marines in the grades of PFC and LCpl.

d. Reductions effected per this paragraph are administrative in nature (nonpunitive) and are not intended or designed to function as disciplinary measures.

e. Nonpunitive reductions for incompetence, will be reported on the unit diary in accordance with the instructions contained in the current edition of MCO P1080.40 (Marine Corps Total Force System Personnel Reporting Instructions Manual (MCTFSPRIM)). Upon effecting the administrative reduction, the Marine reduced will receive the DOR previously held in the

grade to which reduced. The time in grade (TIG) for promotion to the next higher grade for those Marines administratively reduced will include all previous TIG in the grade to which reduced and will include the TIG in the grade from which reduced.

EXAMPLE: A PFC who had a DOR (as PFC) of 1 March 1999 is promoted to LCpl and given a DOR (as a LCpl) of 1 November 1999 is subsequently administratively reduced for incompetence to PFC on 14 February 2000. The effective date of the reduction to PFC is 14 February 2000. The Marine is assigned a PFC DOR of 1 March 1999. Based on the Marine's TIG (new TIG as a PFC of 14 months), having waited for a period of 3 months (see subparagraph f below), and the recommendation of the commander, the Marine may be promoted to LCpl no sooner than 1 June 2000.

f. Marines reduced for incompetence must wait as indicated below before they are again eligible for promotion:

- (1) Promotion to PFC or LCpl for a period of 3 months.
- (2) Promotion to Cpl or Sgt for a period of 6 months.
- (3) Promotion to SSgt and above for a period of 12 months.

g. Marines administratively reduced by a CRB are not eligible for remedial promotion consideration to the grade from which they were reduced if such remedial promotion would give them a DOR earlier than allowable under the provisions of this manual.

h. A Marine who has been the subject of a CRB that resulted in a final determination that the Marine should be retained in the current grade may not be subjected to additional competency review proceedings for the same conduct or action(s), except in the following circumstances.

- (1) When there is subsequent misconduct or substandard performance forming the basis, in whole or in part, for a new CRB; or
- (2) When there is new or newly discovered evidence that was not reasonably available at the time of the prior CRB.

NOTE: In the above-listed circumstances, the previously used information may be used to complement the new information.

i. The commander should, and may within his discretion, refer all criminal misconduct to disciplinary proceedings; i.e., nonjudicial punishment (NJP) or court-martial. The commander may use the same misconduct as the basis for administrative actions such as a CRB for reduction due to professional incompetence. While a CRB reduction for professional incompetence is not meant to be a disciplinary measure, it may be initiated based on any conduct which the commander believes to indicate professional incompetence, including criminal acts which should/may have been referred to NJP or a court-martial. However, a Marine reduced (or receiving a suspended reduction) as a result of disciplinary proceedings may not be reduced by a CRB whereby the sole basis for the CRB is the same offense/action.

3. When a Marine's technical and/or professional competence is deficient for the Marine's grade and all appropriate command attempts through leadership and rehabilitation to correct the deficiency have been unsuccessful, the commander may convene a CRB to administratively reduce the Marine for incompetence.

a. Counseling

(1) In general, all reasonable efforts at rehabilitating and retraining the Marine should be made prior to initiation of a CRB. Counseling is one means of ensuring that the Marine is made aware of deficiencies and given an opportunity to improve his performance.

(2) In some instances the Marine need not be afforded an opportunity to correct deficiencies prior to the initiation of a CRB. For example, a Marine need not be counseled concerning a failure to complete all requirements at an MOS producing school. The Marine should have been counseled prior to failing the school.

(3) All counseling should be reflected in the Marine's service record (See MCO 1070.12, Marine Corps Individual Records Administration Manual (IRAM) for the proper format) and should include the following information:

(a) List the deficiencies;

(b) Specific recommendation(s) for corrective action, including where assistance is available;

(c) A comprehensive explanation of the consequences of a failure to successfully undertake the recommended corrective action; and

(d) Provide a reasonable opportunity for the Marine to undertake the recommended corrective action.

b. In all cases, the Marine must be provided written notice of the initiation of a CRB, including the cases of PFCs and LCpls when the CRB is held by the commander.

(1) Such written notice to the Marine when the CRB is held by the commander shall include the following (Figure 6-1) (Figure 6-2 is the corresponding acknowledgment form to be completed by the Marine.):

(a) The identity of the officer authorized to effect the reduction, if reduction is recommended.

(b) The specific reason why the CRB is being convened, including the factual circumstances upon which such action is based.

(c) The date, time, and place the CRB will be held.

(d) The right to consult with a qualified counsel.

1 The Marine should be given an opportunity to consult with a judge advocate if such counsel is reasonably available. However, no attorney-client relationship shall be established nor is the Marine entitled

to representation by such counsel before the CRB or in any other proceedings associated with a CRB.

2 The Marine may consult with a civilian attorney (at no expense to the Government); however, there is no right to representation by civilian counsel in these proceedings. In no case will consultation with civilian counsel unduly delay competency review proceedings.

(e) The right to appear in person before the CRB.

(f) The right to remain silent before the CRB, and/or the right to make a statement before the CRB, subject to the provisions of Article 31b, of the Uniform Code of Military Justice (UCMJ) (compulsory self-incrimination of criminal matters is prohibited).

(g) The right to submit a statement.

(h) The right to cross-examine any witness who may appear before the CRB.

(i) The right to call witnesses, if reasonably available, at no cost to the government.

(j) The right to examine all evidence to be considered by the CRB at a reasonable time prior to the CRB.

(k) The right to submit evidence before the CRB.

(l) The right to make a final statement.

(m) The right to obtain copies of all documents that will be forwarded to the reduction authority concerning any recommended action. Classified documents will be summarized.

(n) The right to submit a statement of rebuttal to the CRB to be included with the CRB's recommendation to the reduction authority.

(o) The right to appeal the reduction authority's action, to the next senior officer in the chain of command.

(p) The right to appear before the reduction authority or to submit a statement in lieu of a personal appearance before the reduction authority.

(q) The right to waive the rights herein afforded in paragraphs 6001.3b(1)(d) through 6001.3(1)(p) and that failure to respond shall constitute a waiver of these rights.

(r) The Marine has the option to waive a CRB hearing entirely and accept the commander's determination of incompetence and the ensuing reduction in grade. Marines who chose to exercise this option and accept the incompetence determination have no right of appeal.

(2) If a CRB is conducted by other than the commander (i.e., a CRB with multiple members), then, in addition to the rights set forth in paragraph 6001.3b(1) above, the Marine will be notified in writing of the

following (See Figure 6-1):

- (a) The identity of the members appointed to the CRB.
- (b) The right to challenge members of the CRB for cause.
- (c) The right to waive any of the rights challenging the members of the CRB for cause.

4. Competency Review Board

a. Composition

(1) A CRB will be appointed by order of the commander, as defined in paragraph 1200.3b, the convening authority. Where practical, the board will consist of an odd number of members, at least three. Also where practical, at least two Marine officers and one Marine SNCO (senior in grade to the Marine being considered by the CRB) will be appointed to the board. In the case of a SgtMaj or MGySgt the SNCO member will be senior by date of rank and/or billet.

(2) If action has been initiated to review the Marine's technical competence, the enlisted member of the CRB should be of an MOS related to that of the Marine, if reasonably available. Failure to appoint an enlisted Marine or a Marine who is of a related MOS to the CRB does not invalidate the proceedings.

(3) A field grade officer, if reasonably available, should be assigned as the senior member to preside over the CRB and guide the CRB in the performance of its duties.

(4) Marines appointed to a CRB shall be selected on the basis of their experience, mature judgment, sound temperament, objectivity, impartiality and shall possess personal qualities commensurate with the gravity of the CRB proceedings.

(5) Reserve/Minority/Female Marines

(a) If the Marine is a Reservist, the membership of the CRB shall include a majority of reservists as members, if reasonably available.

(b) If the Marine is a member of a racial or ethnic minority, at least one member of the CRB shall be a member of a racial or ethnic minority, if reasonably available. The member need not be of the same racial or ethnic minority as the Marine.

(c) If the Marine is female, at least one member of the CRB shall be a female Marine, if reasonably available.

(6) A nonvoting recorder may be appointed by the convening authority to the CRB. The recorder's primary responsibility is to "exploit all practical sources of information and to bring out all the facts, favorable or unfavorable, concerning the Marine, in such manner as to permit the CRB to make fully informed findings and recommendations concerning the Marine." The recorder should be a commissioned officer.

(7) Neither the convening authority or any officer in the Marine's chain of command who may review the CRB can serve as a member of the CRB or appear before the CRB as a witness. The exception is when the commander is the CRB.

b. Challenging CRB Membership

(1) The Marine may challenge any member of the CRB for cause. The basis for such a challenge is that it is believed that the member being challenged cannot fairly evaluate the merits of the case and render an impartial decision. The challenged member will be given the right to make a statement with respect to the challenge.

(2) The burden of persuasion in establishing a challenge is on the Marine appearing before the CRB.

(3) The unchallenged members of the CRB will vote on whether or not the challenged member remains on the board after hearing all information regarding the challenge and any rebuttal. The boardroom will be cleared of all personnel except for board members voting on the challenge. Challenged members will not be present during deliberations or voting on their challenge. A challenge shall be decided by a preponderance of the evidence and shall be approved by a majority of the board or tie vote.

(4) If the challenge results in removing one of the members of the board and it also reduces the number of members to below three, the convening authority shall be notified immediately. The CRB shall stand adjourned until the convening authority appoints an additional member(s), if responsibly available.

(5) When the CRB membership consists of only the commander, membership cannot be challenged.

c. Sessions

(1) Except as set forth in this paragraph, all sessions of the CRB shall be open to the public. The Marine has the right to be present at all open sessions of the board and at any session wherein evidence is presented to the CRB. At the direction of the senior member, the hearing room may be cleared at any time for deliberations or consultations. Deliberations or consultations are defined as periods of time when the CRB members are discussing the evidence/information provided to reach a competency determination. During deliberations, all persons including the recorder and Marine will withdraw from the hearing room.

(2) If any information or material to be heard or seen by the CRB requires a security clearance and some of the participants do not have the required clearance, the convening authority shall be consulted immediately for guidance.

d. Evidence

(1) The strict rules of evidence governing trial by courts-martial are not applicable to a CRB. The admissibility of evidence is a matter within the discretion of the senior member of the board. No evidence will be rejected from consideration solely on the grounds that it would be

inadmissible in court-martial proceedings. The CRB may impose reasonable restrictions as to the relevance, competence, cumulativeness, and materiality of all evidence to be considered by the board so as to promote an orderly procedure and to ensure a full and impartial hearing.

(2) All evidence that is to be considered by the CRB will be made a part of the record during an open session of the board.

(3) Testimonial evidence in the form of written sworn/unsworn statements, affidavits, or any other accurate and reliable means for presenting testimonial evidence may be accepted.

(4) The CRB shall rely upon its judgment and experience in determining the weight and credibility to be given material and information received in evidence.

e. Witnesses

(1) Testimonial evidence may be presented to the CRB through the personal appearance of witnesses. The testimony of a witness may be excluded if the senior member of the CRB determines that its evidentiary value is substantially outweighed by considerations of undue delay, waste of time, or needless presentation of cumulative evidence.

(2) The senior member of the CRB will assist in obtaining the presence of witnesses, at no cost to the government, that the Marine desires to testify in person before the board in their behalf.

(3) No witness, including the Marine, appearing before the CRB shall be compelled to incriminate himself or herself or to answer any questions, which may tend to incriminate themselves.

(4) The CRB may not compel the Marine to testify as a witness. A Marine's election to remain silent cannot be used against them in determining the CRB's findings of fact, opinions, and recommendations.

(5) The senior member of the CRB may direct the calling of a witness, in the pursuit of further lines of questioning, or in the presentation of other evidence to completely develop all matters before the board.

(6) No member of the CRB may be a witness or provide personal input to the board about the Marine, orally or in writing, favorable or unfavorable.

f. The burden of proof for proving that a Marine is incompetent rests with the command. The Marine is presumed competent for continued service in their grade and MOS by virtue of their grade and MOS. The command has the burden of rebutting that presumption by establishing that the Marine's performance warrants reduction. The standard of proof for all matters before a CRB is a "preponderance of the evidence." These rules also apply to the review by the reduction authority and any officer in the chain of command who will review any appeals.

g. Findings of Fact, Opinions and Recommendations

(1) The CRB shall determine its findings of fact, opinions and recommendations in closed session. Only voting members of the board shall be present during these deliberations.

(2) The CRB shall recommend one of the following determinations: that the Marine be retained at the present grade, reduced in grade, or reduced in grade with a suspended reduction. The Marine will not be reduced more than one grade as a result of any single action taken under this Chapter. A Marine reduced under the authority of paragraph 6002, a failure to complete qualifications in an intended MOS, may be reduced more than one grade.

h. CRB Report

(1) The CRB report shall be kept in a summarized form. In all cases, the findings of fact, opinions and recommendations of the CRB shall be in "verbatim form." The report shall be prepared as directed by the convening authority and shall be signed by all members. Figure 6-3 is a sample CRB report.

(2) Minority reports, if any, shall be attached. A minority report is a signed statement of opinion by any member(s) who disagrees with the majority of the members of the CRB.

(3) The CRB report and the recommendations of the board shall be forwarded via the convening authority to the commander (reduction authority) authorized to take action on any recommended reduction. The reduction authority may or may not be the same person as the convening authority.

i. Once notified of the CRB's recommendation, the Marine may submit a statement in rebuttal to the CRB's recommendation to the reduction authority via the convening authority. The statement must be submitted within 5 working days (20 calendar days for Marines in the SMCR and IRR of the reserve component) or the right to rebut the CRB's recommendation is considered to have been waived.

5. Action Required on Recommended Action by the CRB

a. A Marine may not be reduced more than one grade as a result of any single action taken under this Chapter (unless reduced under the authority of paragraph 6002, a failure to complete qualifications in an intended MOS). The reduction may be suspended for a period not to exceed 6 months from the date of the reduction authority's action. Paragraph 6001.8 pertains.

b. Marine commanders, as defined in paragraph 1200.3b, are authorized to reduce Marines in the grades of PFC through Sgt.

c. Marine officers exercising general court-martial convening authority are authorized to reduce Marines in the grades of SSgt and above.

d. If necessary and/or appropriate, commanders whose chain of command does not include a Marine officer with general court-martial convening authority will forward the record of proceedings for final action to the general court-martial convening authority who has been designated as their separation authority by MCO P1900.16 (Marine Corps Separation and Retirement Manual (MARCORSEPMAN)).

e. Reduction Authority Action

(1) The reduction authority will review the CRB report and any rebuttal submitted by the Marine to determine whether the Marine will be maintained at their current grade, reduced, or that the Marine will be reduced with the reduction suspended.

(2) If the reduction authority agrees with the CRB recommendation, no further action is required unless the decision is appealed by the Marine.

(3) If the reduction authority disagrees with the CRB's recommendation, the case will be forwarded as provided below:

(a) If the Marine is a Sgt or below:

1 Forward the case with a recommendation via the chain of command to the Marine officer exercising general court-martial convening authority, who will then take final action on the CRB and appeal.

2 If the chain of command does not include a Marine officer exercising general court-martial convening authority, then the recommendation will be forwarded to the general court-martial convening authority designated as the separation authority by MCO P1900.16.

3 If the general court-martial convening authority is the reduction authority, forward the case with a recommendation to the next general officer in the chain of command. If there is no other general officer in the chain of command forward the CRB with a recommendation to the CMC (MMPR-2) for final action by the Director, Personnel Management Division.

(b) If the Marine is a SSgt or above:

1 Forward the case with a recommendation to the next general officer in the chain of command.

2 If there is not another general officer in the chain of command then forward the CRB with a recommendation to the CMC (MMPR-2) for final action by the Director, Personnel Management Division.

(4) If a general court-martial convening authority or a general officer conducts a review of the reduction authority's recommendation, they will make one of the following determinations: that the Marine be retained at the present grade, reduced in grade, or reduced in grade with a suspended reduction.

(5) If the CMC(MMPR-2) conducts a review of the CRB, the CMC(MMPR-2) will make one of the following determinations: that the Marine be retained at the present grade, reduced in grade, or reduced in grade with a suspended reduction.

(6) The reduction may be effected immediately once action has been completed by the reduction authority, regardless of any pending appeal.

(7) If the final action results in a reduction or suspended reduction that does not require the CMC's review or action per the guidelines listed

above, and the Marine is a SNCO select, then the CMC (MMPR-2) must be notified of the results of the CRB.

(a) If the Marine is reduced, their name will be administratively deleted from the appropriate select list.

(b) If the Marine's reduction is suspended, then a recommendation regarding the Marine's promotion must be forwarded to the CMC (MMPR-2) per paragraph 5200.

7. Appeals

a. Marines must be fully informed of their right to appeal. A Marine reduced (including a suspended reduction) under the provisions of this Chapter who considers the reduction to be unjust may appeal via the chain of command to the last officer (this can be the reduction authority, the general court-martial convening authority or a general officer depending on previous decisions made on the CRB) to render a decision and take action on their CRB. An appeal must be submitted within 5 days (20 calendar days for Marines in the SMCR and IRR of the reserve component) of the notification to the Marine of the action taken, or the right to appeal shall be waived in the absence of good cause shown.

b. The officer receiving the Marine's appeal will review the appeal and make a recommendation/comment/endorsement on the CRB report before forwarding the CRB report and appeal to the next senior officer in the chain of command authorized to take action.

(1) If the Marine is a Sgt or below the CRB report will be forwarded with all recommendations via the chain of command to the next general officer (or first general officer) in the chain of command for final action.

(2) If the Marine is a SSgt or above, then the reduction authority will forward the appeal and recommendations and the CRB report via the chain of command to the next general officer or to the CMC (MMPR-2) for final action.

c. The officer or CMC (MMPR-2), as appropriate, receiving the reduction authority's recommendation and the Marine's appeal will refer the appeal to a judge advocate for review and written opinion/comment before taking action on the issue raised. The form and content of the judge advocate's review will be a standard naval letter format. The original of the judge advocate's review will be attached to the CRB report as a permanent part of the record of proceedings.

d. When reviewing the appeal, the officer or the CMC (MMPR-2) (as appropriate) will consider the record of proceedings, any information submitted by the Marine, any information considered during the judge advocate's review, and any other appropriate information and/or material.

e. Upon completion of the appeal's review and any action taken by the officer authorized to take action on the appeal or the CMC (MMPR-2), as appropriate, the Marine will be promptly notified of the results.

f. A Marine has the right to rebut the CRB's recommendation to the reduction authority and to appeal the reduction authority's decision to the

general court-martial convening authority. Once a Marine has exercised these rights the following apply.

(1) In the case of Sgts and below, once at least one general officer has reviewed the appeal and taken appropriate action there is no further appeal.

(2) In the case of SSgts and above, once at least two general officers have reviewed the appeal and taken appropriate action there is no further appeal.

(3) There is no appeal of any action taken by the CMC (Director, Personnel Management Division) on an administrative reduction.

(4) However, this does not preclude the Marine from further appealing to the BCNR.

8. Suspension

a. The reduction authority may suspend a reduction for incompetence for a period not longer than 6 months from the date of reduction. An executed reduction for incompetence may be suspended only within 4 months after the date of reduction.

b. Unless sooner vacated, the suspension of reduction is terminated, without further action, at the end of the period of suspension. If the Marine's current enlistment or term of service expires during the period of suspension, and the Marine does not reenlist or enter the Marine Corps Reserve, the suspended reduction automatically terminates.

c. A Marine whose reduction for incompetence was suspended may have the suspension vacated by the commander authorized to reduce the Marine. The vacation of suspension does not necessarily have to be done by the officer who initially suspended the reduction.

(1) The vacation of suspension will be based only on technical or professional incompetence, which occurs during the period of suspension.

(2) Before a suspension may be vacated, the Marine shall be notified and given an opportunity to respond. Although another CRB is not required to vacate a suspension, the Marine should, unless impracticable, be given an opportunity to appear before the reduction authority to present information in extenuation or mitigation of the performance or conduct upon which the vacation is to be based.

(3) If the reduction authority is an officer exercising general court-martial convening authority or the CMC (MMPR-2), then the Marine's commander, as defined in paragraph 1200.3b, will conduct a hearing and forward a report thereof with recommendations to the reduction authority for a final decision regarding vacation of suspension.

(4) Note that vacating the suspended reduction for incompetence is the completion of an action previously determined and approved and is not subject to appeal. The action that caused the revocation to occur is a separate action unto itself; therefore, additional action may be taken to further reduce the Marine for incompetence or to take disciplinary action for the

performance or conduct upon which the vacation action is based.

9. Final Disposition of the CRB Report

a. If after all appropriate reviews and any appeals, a Marine is determined to be competent technically and/or professionally, by the final officer taking action on the CRB, or the CMC (MMPR-2), the CRB report will be returned to the originating unit for disposition.

b. If a Marine is found to be incompetent, technically and/or professionally, and accordingly reduced, the report of the CRB, all endorsements therein, and a report of the final action taken on any appeals will be forwarded to the CMC (MMSB) to be made part of the Marine's official record.

c. If a Marine is found incompetent, technically or professionally, and the reduction is suspended, the report of the proceedings will be returned to the originating unit for retention locally during the period of suspension. If the suspended reduction is subsequently vacated, the report will be forwarded to the CMC (MMSB) for inclusion in the Marines official record. Once the period of suspension expires without vacation, the originating unit will forward the report to the CMC (MMSB) to be made part of the Marine's official record.

10. Administrative differences for the conduct of CRBs for the members of the reserve component.

a. Reserve component Marines who are on active duty in the Active Reserve (AR) will be processed in the same manner as regular component Marines.

b. Members of the reserve component may be reduced for incompetence just as regular component Marines are reduced for incompetence. They also may be administratively reduced by a CRB when they fail to attend required drill and/or annual training (professional incompetence). The notification procedures of CRB processing for SMCR and IRR Marines is slightly different than regular component Marines. All other procedures remain the same.

c. The SMCR or IRR Marine concerned will be notified via certified mail of the pending CRB proceedings and afforded an opportunity to make a statement and/or appear before the CRB. If the Marine does not desire to make a statement or appear before the CRB, the commander will ensure that appropriate remarks are made in the CRB's record of proceedings. The following additional guidance is provided to aid the commander.

(1) The Marine will be notified in writing of the pending CRB, which may result in a reduction in grade. The letter of notification may be delivered to the SMCR or IRR Marine concerned via personal service or by mail. If the notification is mailed, send the notification by certified mail using the PS Form 3800 or any other means whereby the Marine will have to certify (sign) receipt of the letter.

(2) If the letter notifying the Marine of the pending CRB is mailed to the Marine's last known mailing address but is returned as undeliverable; the commander may immediately initiate action to complete the CRB and/or effect the administrative reduction noting in the CRB report that the Marine

could not be contacted.

(3) If the letter is properly received, allow a reasonable time for the Marine to respond (normally 20 days from the date of receipt). A failure by the Marine to respond, constitutes a desire to waive all rights to appear before the CRB and to provide a statement to the CRB. The commander may proceed with the CRB.

(4) The Marine may appear before the CRB at no cost to the government.

(5) If the Marine chooses not to appear before the CRB, they will be notified via written correspondence (certified mail) of the results of the CRB by the commander.

d. The availability of judge advocates to reserve component Marines is limited; however, this will not impede the conduct of a CRB. If such counsel is reasonably available, the Marine should be given an opportunity to consult with the judge advocate or civilian counsel.

6002. REDUCTIONS EFFECTED FOR INCOMPETENCE NOT REQUIRING A CRB

1. Marines who fail to complete qualification in an intended MOS are technically deficient. Therefore, directors of formal schools and commanders (as defined in paragraph 1200.3b) are authorized to administratively reduce Marines who while serving in a basic MOS, are promoted to Cpl and/or above, and fail to complete qualification in the intended MOS. The Marine will be administratively reduced to the grade held prior to assignment of the basic MOS (Marines may be reduced by more than one grade if promoted more than once while holding the basic MOS and pending qualification in the intended MOS). This applies to academic failures, voluntary withdrawals from training, and disenrollment from school for professional deficiencies. Final action to effect the Marine's administrative reduction will be completed prior to the Marine being transferred from the school. There is no appeal to any action taken under the authority of this paragraph.

2. If a Marine who is selected for promotion is administratively reduced, then their name will be administratively deleted from the promotion list. The director of the formal school or commander will notify the CMC (MMPR-2) by message of the names of those Marines selected for promotion to SSgt and above in an intended MOS who fail to complete qualifications in the intended MOS.

6003. REDUCTIONS FOR FAILING TO COMPLETE COMMISSIONING PROGRAMS (NONCOMPETITIVE SELECTIONS). Marines noncompetitively selected for or promoted to Cpl or higher who are disenrolled from their commissioning program (warrant officer selects or Marine Enlisted Commissioning Education Program) will be administratively reduced or have their name deleted from the promotion list under the authority contained in this paragraph. The CMC (MMPR-2) is the reduction authority under this paragraph. Commanders will submit a detailed report to the CMC (MMPR-2) in accordance with paragraph 5200.

6004. EFFECTIVE DATE OF REDUCTION

1. A reduction effected for incompetence (technical and/or professional) is effective on the date of approval by the commander authorized to reduce the Marine or on the date specifically directed by the CMC (MMPR-2). The DOR to be assigned is the DOR previously held in the grade to which reduced.
2. A vacated suspended reduction is effective on the date vacated.

Commanding Officer's Heading

SSIC
S-1
DATE

From: Commanding Officer
To: (Marine's name)

Subj: NOTIFICATION OF CONVENING OF A COMPETENCY REVIEW BOARD (CRB)

Ref: (a) MCO P1400.32C

Encl: (1) Acknowledgment of Marine's Rights to be Exercised or Waived for
Competency Review Proceedings

(Multi-member CRB)

1. Per the provisions of chapter 6 of the reference, you are hereby notified that I intend to initiate competency review board proceedings and recommend to (state the officer's name), who is the reduction authority, that you be reduced to (specify grade) due to your (technical/ professional) incompetence. The factual circumstances upon which this recommendation for reduction is made is based upon the following: (state facts)

OR

(Commander only CRB)

1. Per the provisions of chapter 6 of the reference, you are hereby notified that I intend to initiate competency review board proceedings and reduce you to (specify grade) due to your (technical/ professional) incompetence. The factual circumstances upon which this recommendation for reduction is made is based upon the following: (state facts)

2. You are hereby directed/authorized to appear before a Competency Review Board on (date, time, and place).

(Multi-member CRB)

3. Competency Review Board will consist of the following members; (list the members). You have the right to challenge any of the members for cause.

OR

(Commander only CRB)

3. I will conduct the Competency Review Board.

4. As a result of the recommendation for your reduction for (technical/ professional) incompetence, you have the following rights:

a. The right to consult with qualified counsel, if reasonably available, prior to exercising or waiving any of your rights. Representation before the CRB by counsel is not authorized. You may consult with a civilian attorney at no expense to the government; however, there is no right to representation by civilian counsel in these proceedings.

Figure 6-1- Notification of Convening of a Competency Review Board

Subj: NOTIFICATION OF CONVENING OF A COMPETENCY REVIEW BOARD (CRB)

b. The right to appear in person before the CRB. (For SMCR and IRR Marines include the following: Failure to appear without good cause constitutes a waiver of the right to be present at the hearing. The right to appear in person at the CRB is at your own expense.)

c. The right to remain silent, or to refuse to make a statement, subject to the provisions of Article 31b, of the Uniform Code of Military Justice (UCMJ). (Compulsory self-incrimination of criminal matters prohibited.)

d. The right to submit a written statement.

e. The right to cross-examine any witnesses who appear during the hearing.

f. The right to call witnesses on your behalf if those witnesses are reasonably available. I will assist you in obtaining the appearance of any witness, at no cost to the government, should you so request.

g. The right to examine all evidence to be considered by the CRB at a reasonable time prior to the hearing.

h. The right to submit evidence.

i. The right to make a final statement.

j. The right to obtain copies of documents that will be forwarded to the reduction authority concerning the proposed reduction, classified documents will be summarized.

k. The right to submit a statement in rebuttal to the CRB's recommendations to the reduction authority. Any rebuttal you make must be submitted within 5 working days (For SMCR and IRR Marines within 20 calendar days) of the CRB's notification of their recommendation, or the rebuttal shall be waived in absence of good cause shown.

l. The right to appeal the reduction authority's action to (next officer in the chain of command). Any appeal you make must be submitted within 5 working days (For SMCR and IRR Marines within 20 calendar days) of the reduction authority's notification of action, or the appeal shall be waived in absence of good cause shown.

m. The right to appear before the reduction authority or to present written statements in rebuttal to the proposed reduction in lieu of the appearance.

n. The right to waive any of the rights contained herein.

o. A failure to avail yourself to any of the rights contained herein constitutes a waiver of the right on your behalf.

Figure 6-1- Notification of Convening of a Competency Review Board
(continued)

p. The option to waive the CRB proceedings entirely and accept the commander's determination of incompetence and the ensuing reduction. If this option is exercised, there is no right to appeal or rebut any determination.

5. You are directed to respond in writing to this notice no later than (date) (allow at least 5 working days, 20 calendar days For SMCR and IRR Marines) by completing and returning the enclosure. Failure to respond by the prescribed time constitutes a waiver of your rights.

(Signature of Commanding Officer)

Figure 6-1- Notification of Convening of a Competency Review Board
(continued)

SSIC
S -1
DATE

From: (Marine's name)
To: Convening Authority

Subj: ACKNOWLEDGMENT OF RIGHTS PRIOR TO COMPETENCY REVIEW BOARD (CRB)

Ref: (a) (Convening Authority's letter)

1. _____ I acknowledge receipt of the reference notifying me of the convening of a Competency Review Board. Further, that if I am found to be incompetent that I will be reduced to the grade of (one grade from that currently held).
2. _____ I (have/have not) consulted with counsel. The legal counsel/SJA I spoke to is _____.
3. _____ I (do/do not) waive my right to appear before the Competency Review Board.
4. _____ I (have/have not) included written statements in rebuttal to this proposed action.
5. _____ I (do/do not) desire to waive all CRB proceedings in their entirety and accept the commander's determination of incompetence and reduction.
5. _____ I am aware of the rights accorded me as set forth in the reference.

(Signature)

Figure 6-2 - Acknowledgment of Rights Prior To Competency Review Board

Convening Authority's Heading

SSIC
S -1
DATE

From: Senior Member, Competency Review Board
To: (Convening Authority)
Via: (Chain of Command)

Subj: COMPETENCY REVIEW BOARD OF (GRADE, NAME, SSN/MOS OF MARINE)

Encl: (1) (Copy of notice to Marine)
(2) (Copy of Marine's acknowledgment)
(3) (Command exhibits)
(4) (Marine's exhibits)
(5) (Other)
(6) (Marine's post-proceeding statement (if applicable))

1. Findings of Fact. (The findings of the CRB must be supported by the findings of fact.)
2. Opinions. (The opinions of the CRB must be supported by the findings of fact.)
3. Recommendations. (The recommendations of the CRB: retention in grade, reduction, or reduction in grade with suspension of reduction for a period of up to 6 months.)

(Senior member's signature)

(Signature of member)

(Signature of member)

Figure 6-3 - Competency Review Board Report

UNIT HEADING

1400

Affidavit of Service by Mail

State of _____

County of _____

I. (Grade, Name, Component of individual that mailed the notification),
being duly sworn, state that:

On the ____ day of _____, 20__, I mailed the Notification of Competency Proceedings, a true copy of which is attached hereto, by Certified Mail (Return Receipt Requested) using Certified mail number _____ to (Name and Address of Member) that being the last known address given to (Unit) as the one at which official mail would be received by or forwarded to the Marine by depositing same in an official depository of the U.S. Postal Service in sealed government official postal envelope with a return receipt card (PS Form 3811) attached. A receipt for Certified Mail (PS Form 3800) attesting to such action is attached.

(Signature and Grade of Affiant)

Sworn and subscribed before me this _____ day of _____ 20

(Signature and grade of Officer Administering Oath)

Figure 6-4 - Affidavit of Service by Mail